

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A JOINT APPLICATION OF THE CITY OF)
MINOR LANE HEIGHTS, A MUNICIPAL)
CORPORATION OF THE FIFTH CLASS)
SITUATED IN JEFFERSON COUNTY,)
KENTUCKY AND CALVERT INVESTMENTS,)
INC., A REGULATED PRIVATE UTILITY)
CORPORATION. THAT THE PUBLIC)
SERVICE COMMISSION OF KENTUCKY)
APPROVE THE SALE OF SAID CORPORATE)
ASSETS OF CALVERT INVESTMENTS, INC.,)
AND THE PURCHASE OF SAID CITY OF)
ALL SUCH ASSETS INCLUDING THE SEWER)
TREATMENT FACILITY AND COLLECTION)
SYSTEM AND ALL OTHER FACILITIES,)
REAL ESTATE, LATERALS, INSIDE OR)
OUTSIDE THE CORPORATE BOUNDARIES OF)
SAID CITY AND ALL PERSONAL PROPERTY)
AS SET FORTH HEREIN AND NOW BEING)
OPERATED BY SAID CALVERT INVESTMENTS,)
INC.)

CASE NO. 8936

O R D E R

On January 3, 1984, the Commission issued an order approving the transfer of Calvert Investments, Inc., ("Calvert") to the City of Minor Lane Heights ("City"). The approval of the transfer was based on the fulfillment of certain contingencies contained in the contract of sale.

One of those contingencies, a closing date 120 days subsequent to the acceptance of the contract, has not been met. According to the response of the City to a September 19, 1984, Order, acceptable financing has not been arranged and it does not

now have the financial capacity to purchase or operate Calvert.

Because of the inordinate amount of time that has elapsed since Commission approval and because of the inability of the City to secure appropriate funding, the facts upon which the Commission premised its approval of the sale are now in dispute. Given that the City's purchase and the Commission's authorization were predicated on acceptable financing, the failure of that contingency now makes the transfer unfeasible. Without funding, the City is unable and indeed unwilling to complete the transfer.

An able and willing purchaser being a requirement for approving the transfer,¹ the Commission now finds that those factors do not exist, and must rescind its approval.

IT IS THEREFORE ORDERED that:

1. The Order issued in Case No. 8936 on January 3, 1984, is rescinded;
2. The request for approval of the transfer of Calvert Investments, Inc., to the City of Minor Lane Heights is denied;
3. The owners of Calvert shall continue to operate the treatment plant in compliance with all relevant Commission Orders and regulations.

¹ PSC v. City of Southgate, Ky., 268 S.W.2d 19 (1954).

Done at Frankfort, Kentucky, this 2nd day of November, 1984.

PUBLIC SERVICE COMMISSION

Richard D. Demery
Chairman

Robert D. Dyer
Vice Chairman

Sam Shuler
Commissioner

ATTEST:

Secretary